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8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 HECTOR HERNANDEZ, an individual,

11 Plaintiff,

Case No: 2:23-cv-00859-CDS-BNW

12 vs.

13 STATE FARM MUTUAL AUTOMOBILE
 14 INSURANCE COMPANY, a foreign
 15 corporation; DOE INDIVIDUALS I-X,
 16 inclusive; and ROE CORPORATIONS I-X,
 16 inclusive,

17 Defendants.

[PROPOSED] DISCOVERY PLAN AND
 SCHEDULING ORDER SUBMITTED IN
 COMPLIANCE WITH LOCAL RULES 26-
 1(e)[SPECIAL SCHEDULING REVIEW
 REQUESTED]

18 Pursuant to the Court's Local Rule 26-1(d), Plaintiff Hernandez by and through his
 19 counsel of record, TRAYSEN TURNER, ESQ., of the Paul Powell Law Firm, and Defendant,
 20 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (hereinafter "State Farm"), by
 21 and through their counsel JENNIFER INSLEY MICHERI, ESQ., of the law firm of DENNETT
 22 WINSPEAR, LLP, submit their stipulated Discovery Plan and Scheduling Order.

23 **I. The 26(f)/LR 26-1 Conference and Discovery Plan**

24 1. There are no changes to be made in the timing, form, or requirement for
 25 disclosures under Rule 26(a). On July 19, 2023, counsel for the parties met and conferred as
 26 required by Fed. R. Civ. P. 26(f) and LR 26-1(d). Plaintiffs and Defendant agreed to have their
 27 respective FRCP Productions submitted within 14 days of the Conference.

1 2. Discovery will be conducted on liability, damages, contractual claims and
2 defenses, extra-contractual claims and defenses and other topics permissible under Rule 26(A).
3 The parties agree that discovery need not be conducted in phases focused on any particular
4 issues.

5 3. There are no concerns, at this juncture, regarding the production of electronically
6 stored discovery.

7 4. There are no concerns, at this juncture, regarding the claim of privilege or
8 necessity for protective orders.

9 5. The parties do not anticipate any potential limitations to be imposed on discovery.

10 6. Estimated time for trial: five (5) full trial days.

11 7. The parties agreed that there is no need for orders, at this juncture, to be issued
12 under Rule 26(c) or Rule 16(b) and (c), although the parties reserve the right to seek such orders
13 as discovery continues.

14 8. Alternate Dispute Resolution: The parties conferred about the possibility of using
15 alternative dispute-resolution processes and at this time have not come to any agreement
16 regarding the same.

17 9. Alternate Forms of Case Disposition: The parties do not consent to trial by a
18 magistrate judge under 28 U.S.C. §636 (c) and Fed. R. Civ. P. 73 and the use of the Short Trial
19 Program (General Order 2013-01).

20 10. Electronic Evidence. The parties do not intend to present evidence in electronic
21 format to jurors for the purpose of jury deliberations at this time.

22 **II. The Scheduling Order**

23 1. Defendants filed their Petition for Removal on June 1, 2023. 240 days will be
24 needed for discovery. The parties hereby request an expanded discovery period not only so that
25 following receipt of executed authorizations for the release of Plaintiff's relevant pre and post-
26 accident medical treatment records and bills, Defendant is able to obtain Plaintiff's medical
27 records and bills, as well as complete a review and evaluation of Plaintiff's claims in connection
28 with this matter, and potential allegation of need for future care, but due to the questions and

1 information sought regarding the extra-contractual allegations pending against State Farm at
 2 issue in this case, and which further justify an expanded discovery period as respectfully
 3 requested herein.

4 In addition, once records and bills are obtained from numerous providers, further time is
 5 necessary in order for the parties to provide experts with relevant records for expert review and
 6 evaluation, including pre-accident records and regarding prior medical conditions, followed by an
 7 independent medical examination of potentially Plaintiff, by Defendant's expert[s].

8 2. Discovery Cut Off Date: The discovery cut-off deadline will be Friday, January 26,
 9 2024, which is 240 days¹ after Defendants filed their Notice of Removal.

10 3. Amending the Pleadings and Adding Parties: The last date for filing motions to
 11 amend the pleadings or add parties shall not be later than 90 days prior to the close of discovery.
 12 In this action, the last date for filing motions to amend the pleadings or add parties shall be
 13 Friday, October 27, 2023.²

14 4. Fed. R. Civ. P. 26(a)(2) Disclosures (Experts): The last date for disclosure of
 15 expert witnesses shall be 60 days before the discovery cut-off date. In this action, the last date
 16 for disclosure of experts shall be November 27, 2023. Disclosures with respect to rebuttal
 17 experts shall be made 30 days after the initial disclosures or experts, or by December 27, 2023.

18 5. Dispositive Motions: The last date for filing dispositive motions shall not be later
 19 than 30 days after the discovery cut-off. In this action, the last date for filing dispositive motions
 20 will be Monday, February 26, 2024.³

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25 ¹ 240 days after the Removal Petition would be on Saturday, January 27, 2024, as such
 26 the deadline will be set for the prior judicial day, which is Friday, January 26, 2024.

27 ² 90 days prior to the discovery deadline is Saturday, October 28, 2023, as such the
 28 deadline will be set for the next judicial day, which is Friday, October 27, 2023.

³ 30 days after the discovery deadline is Sunday, February 25, 2024, as such the
 28 deadline will be set for the next judicial day, which is Monday, February 26, 2024.

1 6. Pre-Trial Order: The joint pre-trial order shall be filed no later than 30 days after
2 the date set for filing dispositive motions. In this action, the joint pre-trial order shall be filed on
3 or before Wednesday, March 27, 2024. In the event dispositive motions are filed, the date for
4 filing the joint pre-trial order shall be suspended 30 days after decision of the dispositive motion
5 or further order of the Court.

6 7. Fed. R. Civ. P. 26(a)(3) Disclosures: The disclosures required by Fed. R. Civ. P.
7 26(a)(3) and any objections thereto shall be included in the pre-trial order.

8 8. Any request to extend the dates set forth in this Discovery Plan and Scheduling
9 Order shall be submitted to the Court not later than 21 days before the expiration of the subject
10 deadline sought to be extended.

11 **INITIAL DISCLOSURES AND DISCOVERY**

12 Initial Disclosures shall be made on or before August 2, 2023. Objections to Initial
13 Disclosures will be filed within ten days after the submission of the Joint Discovery Plan and
14 Scheduling Order, if any. (Fed. R. Civ. P. 26(f)(3)(A)).

15 The parties anticipate conducting written discovery and depositions on all issues allowed
16 under the Federal Rules of Civil Procedure. (Fed. R. Civ. P. 26(f)(3)(B)).

17 The parties hereto will submit a stipulated protective order and confidentiality agreement
18 to be filed with the Court prior to the disclosure of Defendant's materials regarding Plaintiff's
19 contractual and extra-contractual claims against Defendant. (Fed. R. Civ. P. 26(f)(3)(D)).

20 There are currently no issues which parties are aware of regarding discovery of
21 electronically stored information or claims of privilege/protection of trial preparation materials.
22 (Fed. R. Civ. P. 26(f)(3)(C-D)).

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1 There are currently no changes which should be made in the limitations on discovery
2 imposed by the Federal or Local Rules of practice and no additional orders that this Court should
3 issue at this time. (Fed. R. Civ. P. 26(f)(3)(E-F)).

5 DATED: 8-2-2023

DATED: 8-2-2023

6 || THE PAUL POWELL LAW FIRM

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ORDER

IT IS SO ORDERED.

DATED: August 3, 2023

Brent Walker
U.S. MAGISTRATE JUDGE